

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

CHRISTOPHER SOBRADO

PLAINTIFF

v.

No. 3:18CV37-JMV

PAUL FUNDERBURK, ET AL.

DEFENDANTS

ORDER OF DISMISSAL

The court, *sua sponte*, takes up the dismissal of the plaintiff's case filed under 42 U.S.C. § 1983. The plaintiff, a prisoner proceeding *pro se*, seeks review of his sentence imposed under the laws of Mississippi. The plaintiff alleges that in 2009, MDOC Officer Beverly Corder improperly arrested him for alleged violation of the terms of his Earned Release Supervision, which led to the revocation of his supervised release and his incarceration for the remainder of his sentence. He believes that Officer Corder, Paul Funderburk (the state Circuit Judge), Pontotoc County, Mississippi, and the City of Pontotoc violated his federal constitutional rights in this matter. He seeks money damages to compensate him for these alleged constitutional violations.

Mr. does not challenge the conditions of his confinement, as required under 42 U.S.C. § 1983; he instead challenges the validity of the fact and duration of his confinement, a claim which he should have brought as a *habeas corpus* claim under 28 U.S.C. § 2254. A claim under 42 U.S.C. § 1983 does not accrue until the conviction or sentence has been invalidated. *Heck v. Humphrey*, 512 U.S. 477, 489-90 (1994). As the plaintiff has not shown that his conviction or sentence has been reversed, expunged, invalidated or impugned by the grant of a writ of *habeas corpus*, his claim under 42 U.S.C. § 1983 is not ripe for consideration and is **DISMISSED** for failure to state a claim upon which relief could be granted, counting as a “**STRIKE**” under 28

U.S.C. § 1915(g). The dismissal is without prejudice to the plaintiff's ability to file a *habeas corpus* claim under 28 U.S.C. § 2254.

SO ORDERED, this, the 1st day of May, 2018.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE